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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**S.A. No. 514/2005**

**Single Bench:** **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

**Appellants**

1. Nakul Vishwas S/o Nilkanth Vishwas,
2. Naresh Vishwas S/o Nakul Vishwas,
3. Naveen Vishwas S/o Nakul Viswas
4. Narad Vishwas S/o Nakul Vishwas

All are R/o village P.V. -30, Tahsil-Pakhanjur,Distt.-Kanker (CG)

**Versus**

**Respondents**

1. Smt. Golapi Vishwas W/o Late Anath Vishwas
   R/o. P.V.- 30, Yogendra Nagar, Tahsil-Pakhanjur, Distt.- Kanker (CG)
2.. State of Chhattisgarh through the Collector, Distt.- Kanker (CG)

Present: Shri R.K.Tiwari, with Shri F.S. Khare, learned counsel for the appellants.

**ORAL ORDER**

(Passed on 16th March, 2007)

The following oral order of the Court was passed by Dilip Raosaheb Deshmukh, J.

Heard on application dated 12/3/2007 filed under Order-41 Rule-27 of C.P.C. read with Section 151 of C.P.C. for taking additional documents Annexure A-1 & 2 on record.

2. Document Annexure A-1 is already on record. So far as Document Annexure A-2 is concerned, in the absence of any satisfactory explanation for not filing this document, the authenticity of which appears to be extremely doubtful, either in the lower Court or in the 1st Appellate Court, I do not deem if fit to allow this application. Accordingly, application dated 12/3/2007 is dismissed.

3. Heard on admission. The appellants/defendants have preferred this S.A. being aggrieved by the judgment and decree dated 22.10.2005 passed by the 1st Additional District Judge, Kanker in civil appeal No. 4A/2005 whereby the decree for possession and permanent injunction passed in favour of the respondent/plaintiff in civil suit No. 10A/2002 by the civil Judge Class-I, Bhanupratappur vide judgment and decree dated 30.12.2004, was affirmed.

4. Both the Courts have recorded a finding that the respondent/plaintiff was in possession of the suit lands in pursuance to a '*patta*' granted in favour of Anath Vishwas, husband of the plaintiff. The plaintiff was not required to claim the relief for declaration of title since there was no cloud over her title and the defendants failed to prove having any semblance of title over the suit lands and were thus trespassers. Para 8 of the judgment of the 1st Appellate Court shows that it had taken into consideration documents Ex.P-2, P-3 and P-4 which proved that Anath Vishwas had been granted '*patta*' over the suit land and had also considered the fact that possession of Anath Vishwas over the suit land in the year 1990 to 1994 was entered in khasra Panchsala Ex.P-5 & P-6 and after death of Anath Vishwas, the possession of plaintiff was recorded in 1997 vide Ex.P-7. Both the Courts have recorded concurrent finding that the defendants/appellants have dispossessed the plaintiff/respondent from a portion of the suit lands. The finding recorded by both the Courts is thus a pure finding of fact which is based on proper appreciation of the evidence oral as well as documentary. No substantial question of law arises for determination in this appeal. Accordingly, this appeal is dismissed at the stage of admission. In view of the above, M.C.P. 1672/2005 for grant of stay stands disposed of. There shall be no order as to costs.

**Sd/-**
**Dilip Raosaheb Deshmukh**
**Judge**

Priya